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FM AMEMBASSY CANBERRA

TO SECSTATE WASHDC PRIORITY 2710

C O N F I D E N T I A L SECTION 1 OF 8 CANBERRA 1982

FROM USDEL ANTARCTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

E.O. 11652: GDS

TAGS: XV, EFIS

SUBJ: ANTARCTIC TREATY: CHAIRMAN'S DRAFT CONVENTION ON THE CONSER-
VATION OF ANTARCTIC MARINE LIVING RESOURCES

REF: CANBERRA 1980

1. THIS TELEGRAM TRANSMITS THE TEXT OF THE CHAIRMAN'S
DRAFT CONVENTION (SECOND REVISION) ON THE CONSERVATION
OF MARINE LIVING RESOURCES WHICH WAS ISSUED MARCH 15.

2. BEGIN TEXT: "PREAMBLE. THE CONTRACTING PARTIES,
"RECOGNISING THE IMPORTANCE OF SAFEGUARDING THE ENVI-
RONMENT AND PROTECTING THE INTEGRITY OF THE ECOSYSTEM
OF THE SEAS SURROUNDING ANTARCTICA;

"NOTING THE CONCENTRATION OF MARINE LIVING RESOURCES
FOUND IN ANTARCTIC WATERS AND THE INCREASED INTEREST
IN THE POSSIBILITIES OFFERED BY THE UTILIZATION OF
THESE RESOURCES AS A SOURCE AS A SOURCE OF PROTEIN;

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"CONSCIOUS OF THE URGENCY OF ENSURING THE CONSERVAT-
ION OF ANTARCTIC MARINE LIVING RESOURCES;

"CONSIDERING THAT IT IS ESSENTIAL TO INCREASE KNOW-
LEDGE OF THE ANTARCTIC MARINE ECOSYSTEM AND ITS COM-
PONENTS SO AS TO BE ABLE TO BASE DECISIONS ON HARVEST-

ING ON SOUND SCIENTIFIC INFORMATION;

"BELIEVING THAT THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES CALLS FOR INTERNATIONAL CO-OPERATION WITH DUE REGARD FOR THE PROVISIONS OF THE ANTARCTIC TREATY AND WITH THE ACTIVE INVOLVEMENT OF ALL STATES ENGAGED IN RESEARCH OR HARVESTING ACTIVITIES IN ANTARCTIC WATERS;

"RECOGNISING THE PRIME RESPONSIBILITIES OF THE ANTARCTIC TREATY CONSULTATIVE PARTIES FOR THE PROTECTION AND PRESERVATION OF THE ANTARCTIC ENVIRONMENT AND, IN PARTICULAR, THEIR RESPONSIBILITIES UNDER ARTICLE IX, PARAGRAPH(1)(F) OF THE ANTARCTIC TREATY IN RESPECT OF THE PRESERVATION AND CONSERVATION OF LIVING RESOURCES IN ANTARCTICA;

"RECALLING THE ACTION ALREADY TAKEN BY THE ANTARCTIC TREATY CONSULTATIVE PARTIES INCLUDING IN PARTICULAR THE AGREED MEASURES FOR THE CONSERVATION OF ANTARCTIC FAUNA AND FLORA, AS WELL AS THE PROVISIONS OF THE CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS;

"BELIEVING THAT IT IS IN THE INTEREST OF ALL MANKIND TO PRESERVE THE WATERS SURROUNDING THE ANTARCTIC CONTINENT FOR PEACEFUL PURPOSES ONLY AND TO PREVENT THEIR BECOMING THE SCENE OR OBJECT OF INTERNATIONAL CONFIDENTIAL

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DISCORD;

"RECOGNIZING, IN THE LIGHT OF THE FOREGOING, THAT IT IS DESIRABLE TO ESTABLISH SUTIALE MACHINERY FOR RECOMMENDING, PROMOTING, DECIDING UPON AND CO-ORDINATING THE MEASURES AND SCIENTIFIC STUDIES NEEDED TO ENSURE THE CONSERVATION OF ANTARCTIC MARINE LIVING ORGANISMS;

"HAVE AGREED AS FOLLOWS:

ARTICLE I
SCOPE

"1. THIS CONVENTION APPLIES TO THE ANTARCTIC MARINE LIVING RESOURCES OF THE AREA SOUTH OF 60 DEGREES SOUTH LATITUDE AND TO THE ANTARCTIC MARINE LIVING RESOURCES OF THE AREA BETWEEN THAT LATITUDE AND THE ANTARTIC (MARINE LIVING RESOURCES OF THE AREA BETWEEN THAT LATITUDE AND THE ANTARCTIC) CONVERGENCE WHICH FORM PART OF THE ANTARCTIC MARINE ECOSYSTEM.

"2. ANTARCTIC MARINE LIVING RESOURCES MEANS THE POPULATIONS OF FIN FISH, MOLLUSCS, CRUSTACEANS AND ALL

OTHER SPECIES OF LIVING ORGANISMS, INCLUDING BRIDS,
FOUND SOUTH OF THE ANTARCTIC CONVERGENCE.

"3. THE ANTARCTIC MARINE ECOSYSTEM MEANS THE COM-
PLEX OF RELATINSHIPS OF ANTARCTIC MARINE LIVING RE-
SOURCES WITH EACH OTHER AND WITH THEIR PHYSICAL EN-
VIRONMENT.

"4. THE ANTARCTIC CONVERGENCE SHALL BE DEEMED TO
BE A LINE JOINING THE FOLLOWING POINTS ALONG PARALLELS
OF LATITUDE AND MERIDIANS OF LONGITUDE:
50DEGREES S, 0 DEGREES; 50 DEGREESS, 30DEGREE E; 45 DEGREES ,
30 DEGREES E; 45 DEGREESS, 80 DEGREES E; 55 DEGREESS, 80 DEGREES E
55 DEGREES S, 150 DEGREESNE; 60 DEGREES S, 150 DEGREES E;
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60 DEGREES S, 50 DEGREES W; 50 DEGREES S, 50 DEGREES W;
50 DEGREES S, 0 DEGREES.

ARTICLE II
OBJECTIVE

"1. THE OBJECTIVE OF THIS CONVENTION IS THE CONSER-
VATION OF ANTARCTIC MARINE LIVING RESOURCES.

"2. FOR THE PURPOSES OF THIS CONVENTIN, THE TERM
"CONSERVATION" INCLUDES RATIONAL USE.

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C O N F I D E N T I A L SECTION 2 OF 8 CANBERRA 1982

FROM USDEL ANTARCTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

"3. ANY HARVESTING AND ASSOCIATED ACTIVITIES IN THE AREA IN WHICH THIS CONVENTION APPLIES SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROVISIONS OF THIS CONVENTION AND WITH THE FOLLOWING PRINCIPLES OF CONSERVATION:

(A) PREVENTION OF DEPLETION OF ANY HARVESTED SPECIES OR POPULATIONS TO LEVELS BELOW THOSE WHICH PRODUCE THE GREATEST NET ANNUAL INCREMENT IN POPULATION NUMBERS OR BIOMASS;

(B) MAINTENANCE OF THE BALANCE OF THE ANTARCTIC MARINE ECOSYSTEM BY TAKING INTO ACCOUNT THE RELATIONSHIPS OF HARVESTED SPECIES WITH DEPENDENT AND RELATED SPECIES AND THE RESTORATION OF SPECIES OR POPULATIONS DEPLETED BELOW LEVELS DEFINED IN SUBPARAGRAPH(A)

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(C) PREVENTION OF CHANGES IN THE ANTARCTIC MARINE ECOSYSTEM WHICH ARE NOT POTENTIALLY REVERSIBLE OVER A FEW DECADES TAKING ACCOUNT OF UNCERTAINTIES IN KNOWLEDGE BOTH OF THE DIRECT AND INDIRECT IMPACT OF HARVESTING AND ASSOCIATED ACTIVITIES ON THE ANTARCTIC MARINE ECOSYSTEM AND OF THE EFFECTS OF ENVIRONMENTAL CHANGES.

ARTICLE III
LINKS WITH THE ANTARCTIC TREATY

"1. THE CONTRACTING PARTIES, WHETHER OR NOT THEY ARE PARTIES TO THE ANTARCTIC TREATY, AGREE THAT THEY WILL NOT ENGAGE IN ANY ACTIVITIES IN THE ANTARCTIC TREATY AREA CONTRARY TO THE PRINCIPLES AND PURPOSES OF THE TREATY AND THAT, IN THEIR RELATIONS WITH EACH OTHER, THEY ARE BOUND BY THE OBLIGATIONS CONTAINED IN ARTICLES I AND V OF THE ANTARCTIC TREATY.

ARTICLE IV

APPLICATION OF THE PRINCIPLES OF ARTICLE IV AND VI
OF THE ANTARCTIC TREATY TO MARINE AREAS

"1. ALL CONTRACTING PARTIES, WHETHER OR NOT THEY
ARE PARTIES TO THE ANTARCTIC TREATY, ARE BOUND BY AR-
TICLES IV AND VI OF THE ANTARCTIC TREATY IN THEIR
RELATIONS WITH EACH OTHER.

"2. NOTHING CONTAINED IN THIS CONVENTION SHALL BE
INTERPRETED AS A RENUNCIATION BY ANY CONTRACTING PARTY
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OF ANY RIGHT OF OR CLAIM TO OR BASIS OF CLAIM TO
COASTAL STATE JURISDICTION IN MARINE AREAS IN WHICH
THIS CONVENTION APPLIES OR AS PREJUDICING THE POSITION
OF ANY CONTRACTING PARTY AS REGARDS ITS RECOGNITION OR
NON-RECOGNITION OF ANY SUCH RIGHT OR CLAIM OR BASIS
OF CLAIM.

ARTICLE V

RESPONSIBILITY OF THE CONSULTATIVE PARTIES

"1. THE CONTRACTING PARTIES WHICH ARE NOT PARTIES
TO THE ANTARCTIC TREATY ACKNOWLEDGE THE SPECIAL OBLI-
GATIONS AND RESPONSIBILITIES OF THE ANTARCTIC TREATY
CONSULTATIVE PARTIES FOR THE PROTECTION AND PRESERVAT-
ION OF THE ENVIRONMENT OF THE ANTARCTIC TREATY AREA.

"2. THE CONTRACTING PARTIES WHICH ARE NOT PARTIES
TO THE ANTARCTIC TREATY AGREE THAT, IN THEIR ACTIVITIES
IN THE ANTARCTIC TREATY AREA, THEY WILL BEHAVE AS AND
WHEN APPROPRIATE THE AGREED MEASURES FOR THE CONSERVAT-
ION OF ANTARCTIC FAUNA AND FLORA AND SUCH OTHER MEAS-
URES AS HAVE BEEN RECOMMENDED BY THE ANTARCTIC TREATY
CONSULTATIVE PARTIES IN FULFILLMENT OF THEIR RESPONSIBI-
LITY FOR THE PROTECTION OF THE ANTARCTIC ENVIRONMENT
FROM ALL FORMS OF HARMFUL HUMAN INTERFERENCE.

"3. FOR THE PURPOSES OF THIS CONVENTION, "ANTARCTIC
TREATY CONSULTATIVE PARTIES" MEANS THE CONTRACTING
PARTIES TO THE ANTARCTIC TREATY WHOSE REPRESENTATIVES
PARTICIPATE IN MEETINGS UNDER ARTICLE IX OF THE ANTARCTIC
TREATY.

ARTICLE VI

RELATIONSHIP WITH OTHER INTERNATIONAL
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AGREEMENTS

"NOTHING IN THIS CONVENTION SHALL DEROGATE FROM THE RIGHTS AND OBLIGATIONS OF CONTRACTING PARTIES UNDER THE INTERNATIONAL CONVENTION FOR THE REGULATION OF WHALING AND THE CONVENTION FOR THE CONSERVATION OF ANTARCTIC SEALS.

ARTICLE VII

COMMISSION - ESTABLISHMENT AND MEMBERSHIP

"1. THE CONTRACTING PARTIES HEREBY ESTABLISH AND AGREE TO MAINTAIN THE COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES (HEREINAFTER REFERRED TO AS THE COMMISSION).

"2. EACH OF THE CONTRACTING PARTIES SHALL BE A MEMBER OF THE COMMISSION AND SHALL BE REPRESENTED BY ONE REPRESENTATIVE WHO MAY BE ACCOMPANIED BY ALTERNATE REPRESENTATIVES AND ADVISERS.

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ARTICLE VIII

COMMISSION - FUNCTION AND POWERS

"1. THE FUNCTION OF THE COMMISSION SHALL BE TO
GIVE EFFECT TO THE OBJECTIVE AND PRINCIPLES SET OUT IN
ARTICLE II. TO THIS END, IT SHALL:

(A) FACILITATE RESEARCH INTO AND COMPREHENSIVE STUDIES
OF ANTARCTIC MARINE LIVING RESOURCES AND OF THE ANTARCTIC
MARINE ECOSYSTEM;

(B) COMPILE DATA ON THE STATUS OF AND CHANGES IN
POPULATION OF ANTARCTIC MARINE LIVING RESOURCES AND ON FACTORS
AFFECTING THE DISTRIBUTION, ABUNDANCE AND PRODUCTIVITY OF
HARVESTED SPECIES AND DEPENDENT OR RELATED SPECIES OR POPULATION;

(C) ENSURE THE ACQUISITION OF CATCH AND EFFORT STATISTICS
ON HARVESTED POPULATIONS;

(D) ANALYSE, DISSEMINATE AND PUBLISH THE INFORMATION REFERRED
TO IN SUBPARAGRAPHS (B) AND (C) ABOVE AND THE REPORTS OF THE
SCIENTIFIC COMMITTEE;

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(E) IDENTIFY CONSERVATION NEEDS AND ANALYSE THE
EFFECTIVENESS OF CONSERVATION MEASURES;

(F) FORMULATE, ADOPT AND REVISE CONSERVATION MEASURES
ON THE BASIS OF THE BEST SCIENTIFIC EVIDENCE AVAILABLE,
SUBJECT TO THE PROVISIONS OF PARAGRAPH 5 OF THIS ARTICLE;

(G) IMPLEMENT THE SYSTEM OF OBSERVATION AND INSPECTION
ESTABLISHED UNDER ARTICLE XXIII;

(H) CARRY OUT SUCH OTHER ACTIVITIES AS ARE NECESSARY TO
FULFILL THE OBJECTIVE OF THIS CONVENTION.

"2. THE CONSERVATION MEASURES REFERRED TO IN PARAGRAPH
1(F) MAY DEAL WITH THE FOLLOWING:

(A) THE QUANTITY OF ANY SPECIES WHICH MAY BE HARVESTED IN
THE AREA IN WHICH THE CONVENTION APPLIES;

(B) THE DESIGNATION OF REGIONS AND SUBREGIONS BASED ON THE
DISTRIBUTION OF POPULATIONS OF ANTARCTIC MARINE LIVING RESOURCES;

(C) THE QUANTITY WHICH MAY BE HARVESTED FROM THE
POPULATIONS OF REGIONS AND SUBREGIONS;

(D) THE DESIGNATION OF PROTECTED SPECIES;

(E) THE SIZE, AGE AND, AS APPROPRIATE, SEX OF
SPECIES WHICH MAY BE HARVESTED;

(F) OPEN AND CLOSED SEASONS;

(G) OPEN AND CLOSED AREAS, INCLUDING SPECIAL AREAS
FOR THE PROTECTION AND SCIENTIFIC STUDY OF PARTICULAR SPECIES;
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(H) REGULATION OF THE EFFORT EMPLOYED AND METHODS OF
HARVESTING, INCLUDING FISHING GEAR;

(I) THE AVOIDANCE OF UNDUE CONCENTRATION OF HARVESTING IN ANY
REGION OR SUBREGION;

(U) THE EFFECTS OF HARVESTING AND ASSOCIATED ACTIVITIES ON
COMPONENTS OF THE MARINE ECOSYSTEM OTHER THAN THE HARVESTED
POPULATIONS;

(K) SUCH OTHER ASPECTS OF CONSERVATION AS THE COMMISSION
CONSIDERS NECESSARY FOR THE FULFILMENT OF THE OBJECTIVE OF THIS
CONVENTION.

"3. THE COMMISSION SHALL PUBLISH AND MAINTAIN A
RECORD OF ALL CONSERVATION MEASURES IN FORCE.

"4. IN EXERCISING ITS FUNCTIONS UNDER PARAGRAPH 1
OF THIS ARTICLE, THE COMMISSION SHALL TAKE FULL ACCOUNT
OF THE RECOMMENDATIONS AND ADVICE OF THE SCIENTIFIC
COMMITTEE.

"5. THE COMMISSION SHALL TAKE FULL ACCOUNT OF ANY
RELEVANT MEASURES OR REGULATIONS ESTABLISHED OR RECOMMEN-
DED BY THE CONSULTATIVE MEETINGS PURSUANT TO ARTICLE IX OF
THE ANTARCTIC TREATY OR BY EXISTING FISHERIES COMMISSIONS
RESPONSIBLE FOR SPECIES WHICH MAY ENTER THE AREA IN WHICH
THIS CONVENTION APPLIES, IN ORDER THAT THERE SHALL BE
NO INCONSISTENCY BETWEEN THE RIGHTS AND OBLIGATIONS OF
A CONTRACTING PARTY UNDER SUCH REGULATIONS OR MEASURES
AND CONSERVATION MEASURES WHICH MAY BE ADOPTED BY THE
COMMISSION.

"6. CONSERVATION MEASURES ADOPTED BY THE COMMISSION
IN ACCORDANCE WITH THIS CONVENTION SHALL BECOME EFFECTIVE
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AND SHALL ENTER INTO FORCE ONE HUNDRED AND EIGH-

TY DAYS AFTER THE COMMISSION NOTIFIES THEM TO THE CONTRACTING PARTIES.

ARTICLE IX

COMMISSION - ADDITIONAL FUNCTIONS AND POWERS

"1. THE COMMISSION SHALL DRAW THE ATTENTION OF ANY STATE WHICH IS NOT A PARTY TO THIS CONVENTION TO ANY ACTIVITY UNDERTAKEN BY ITS NATIONALS OR VESSELS WHICH, IN THE OPINION OF THE COMMISSION, AFFECTS THE IMPLEMENTATION OF THE OBJECTIVE OF THIS CONVENTION.

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C O N F I D E N T I A L SECTION 4 OF 8 CANBERRA 1982

FROM USDEL ANTARCTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

"2. THE COMMISSION SHALL DRAW THE ATTENTION OF ALL CONTRACTING PARTIES TO ANY ACTIVITY UNDERTAKEN BY ANY CONTRACTING PARTY'S NATIONALS OR VESSELS WHICH, IN THE OPINION OF THE COMMISSION, AFFECTS THE IMPLEMENTATION OF THE OBJECTIVES OF THIS CONVENTION OR THE COMPLIANCE BY THE CONTRACTING PARTY WITH ITS OBLIGATIONS UNDER THIS CONVENTION.

ARTICLE X

COMMISSION - TAKING OF DECISIONS

"1. EACH MEMBER OF THE COMMISSION SHALL HAVE ONE VOTE.

"2. EVERY EFFORT SHALL BE MADE TO TAKE DECISIONS BY CONSENSUS.

"3. DECISIONS ON MATTE
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S SPECIFIED IN PARAGRAPHS
2(A), (B) AND (C) OF ARTICLE VIII SHALL BE TAKEN BY
CONSENSUS.

"4. IF IT IS NOT POSSIBLE TO TAKE BY CONSENSUS A
DECISION ON ANY OTHER MATTER OF SUBSTANCE, DECISIONS
SHALL BE TAKEN BY A TWO-THIRDS MAJORITY OF THE MEMBERS
OF THE COMMISSION PRESENT AND VOTING, PROVIDED THAT
THIS MAJORITY SHALL INCLUDE TWO-THIRDS OF THE ANTARCTIC
TREATY CONSULTATIVE PARTIES WHICH ARE AT THE SAME TIME
MEMBERS
OF THE COMMISSION. THE QUESTION WHETHER A
MATTER IS ONE OF SUBSTANCE SHALL BE TREATED AS A MATTER
OF SUBSTANCE.

"5. ALL DECISIONS OTHER THAN THOSE REFERRED TO IN
PARAGRAPHS 3 AND 4, IF NOT TAKEN BY CONSENSUS, SHALL
BE TAKEN BY A SIMPLE MAJORITY OF THE MEMBERS OF THE
COMMISSION PRESENT AND VOSITNG.

"6. THE PROVISIONS OF THIS ARTICLE SHALL NOT AF-
FECT THE OPERATION OF ARTICLE XMII OF THIS CONVENTION.

ARTICLE XI

COMMISSION -PROCEDURES

"1. THE COMMISSION SHALL MEET ANNUALLY. IT MAY
MEET AT ANY OTHER TIME AT THE REQUEST OF ONE-THIRD
OF ITS MBMBERS.

"2. AT ITS FIRST MEETING THE COMMISSION SHALL
ELECT FROM AMONG ITS MEMBERS A NHAIRMAN AND A VICE-
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CHAIRMAN, EACH OF WHOM SHALL SERVE FOR A TERM OF TWO
YEARS AND SHALL BE ELIGIBLE FOR RE-ELCTION FOR ONE

ADDITIONAL TERM. THE CHAIRMAN AND VICE-CHAIRMAN SHALL NOT REPRESENT THE SAME CONTRACTING PARTY.

"3. THE COMMISSION SHALL ADOPT AND AMEND AS NECESSARY THE RULES OF PROCEDURE FOR THE CONDUCT OF ITS MEETINGS, EXCEPT WITH RESPECT TO THE MATTERS DEALT WITH IN ARTICLE X.

"4. THE COMMISSION MAY ESTABLISH SUCH SUBSIDIARY BODIES AS ARE NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS.

ARTICLE XII

SCIENTIFIC COMMITTEE - ESTABLISHMENT AND MEMBERSHIP

"1. THE CONTRACTING PARTIES HEREBY ESTABLISH THE SCIENTIFIC COMMITTEE FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES (HEREINAFTER REFERRED TO AS THE SCIENTIFIC COMMITTEE) WHICH SHALL BE A CONSULTATIVE BODY TO THE COMMISSION.

"2. EACH OF THE CONTRACTING PARTIES SHALL BE A MEMBER OF THE SCIENTIFIC COMMITTEE AND SHALL APPOINT A REPRESENTATIVE WITH SUITABLE SCIENTIFIC QUALIFICATIONS, WHO MAY BE ACCOMPANIED BY OTHER EXPERTS AND ADVISERS.

"3. THE SCIENTIFIC COMMITTEE MAY INVITE OTHER SCIENTISTS OR EXPERTS TO PARTICIPATE IN ITS WORK IN THE CAPACITY OF ADVISERS.

ARTICLE XIII

SCIENTIFIC COMMITTEE - FUNCTIONS AND POWERS CONFIDENTIAL

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"1. THE SCIENTIFIC COMMITTEE SHALL PROVIDE A FORUM FOR CONSULTATION AND CO-OPERATION AMONG CONTRACTING PARTIES CONCERNING THE COLLECTION, STUDY AND EXCHANGE OF INFORMATION WITH RESPECT TO THE MARINE LIVING RESOURCES COVERED BY THIS CONVENTION. IT SHALL ENCOURAGE AND PROMOTE CO-OPERATION AMONG THE CONTRACTING PARTIES IN THE FIELD OF SCIENTIFIC RESEARCH IN ORDER TO EXTEND KNOWLEDGE OF THE MARINE LIVING RESOURCES OF THE ANARCTIC MARINE ECOSYSTEM.

"2. THE SCIENTIFIC COMMITTEE SHALL CONDUCT SUCH ACTIVITIES AS THE COMMISSION MAY DIRECT IN PURSUANCE OF THE OBJECTIVE OF THIS CONVENTION, AND SHALL:

(A) ESTABLISH CRITERIA AND METHODS TO BE USED FOR
DETERMINATIONS CONCERNING THE CONSERVATION MEASURES REFERRED TO
IN ARTICLE VIII;

(B) REGULARLY ASSESS THE STATUS AND TRENDS OF THE POPU-
LATIONS OF ANTARCTIC MARINE LIVING RESOURCES;

(C) ANALYSE DATA CONCERNING THE DIRECT AND INDIRECT
EFFECTS OF HARVESTING ON THE POPULATIONS OF ANTARCTIC MARINE LIVING
RESOURCES;

(D) ASSESS THE EFFECTS OF PROPOSED CHANGES IN THE METHODS
OR LEVELS OF HARVESTING AND PROPOSED CONSERVATION MEASURES;

(E) TRANSMIT ASSESSMENTS, ANALYSES, REPORTS AND RE-
COMMENDATIONS TO THE COMMISSION AS REQUESTED OR ON ITS OWN INITIATIVE
REGARDING MEASURES AND RESEARCH TO IMPLEMENT THE OBJECTIVE OF
THIS CONVENTION.

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(F) FORMULATE PROPOSALS FOR THE CONDUCT OF INTERNATIONAL
AND NATIONAL PROGRAMS OF RESEARCH INTO ANTARCTIC MARINE LIVING
RESOURCES.

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C O N F I D E N T I A L SECTION 5 OF 8 CANBERRA 1982

FROM USDEL ANTARCTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

"3. IN CARRYING OUT ITS FUNCTINS, THE COMMITTEE SHALL HAVE REGARD TO THE WORK OF OTHER RELEVANT TECHNICAL AND SCIENTIFIC ORGANISATONS AND TO THE SCIENTIFIC ACTIVITIES CONDUCTED WITHIN THE FRAMEWORK OF THE ANTARCTIC TREATY.

ARTICLE XIV

SCIENTIFIC COMMITTEE - PROCEDURES

"1. THE FIRST MEETING OF THE SCIENTIFIC COMMITTEE SHALL BE HELD WITHIN THREE MONTHS OF THE FIRST MEETING OF THE COMMISSION. THE SCIENTIFIC COMMITTEE SHALL MEET THEREAFTER AS MAY BE NECESSARY TO FULFIL ITS FUNCTINS.

"2. THE CONTRACTING PARTIES SHALL TRANSMIT TO THE EXECUTIVE SECRETARY THE NEMES OF THEIR REPRESENTATIVES TO THE SCIENTIFIC COMMITTEE.

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"3. THE SCIENTIFIC COMMITTEE SHALL ADOPT AND AMEND AS NECESSARYITS RULES OF PROCEDURE WHICH SHALL BE APPROVED BY THE COMMISSION. THE RULES SHALL INCLUDE PROCEDURES FOR THE PRESENTATION OF MINORITY REPORTS.

"4. THE SCIENTIFIC COMMITTEE MEY ESTABLISH, WITH THE APPROVAL OF THE COMMISSION, SUCH SUBSIDIARY BODIES AS ARE NECESSARY FOR THE PERFORMANCE OF ITS FUNCTIONS.

ARTICLE XV

COMMISSION - SECRETARIAT

"1. THE COMMISSION SHALL APPOINT AN EXECUTIVE SECRETARY TO SERVE THE COMMISSION AND SCIENTIFIC COMMITTEE ACCORDING TO SUCH PROCEDURES AND ON SUCH TERMS AND CONDITINS AS THE COMMISSION MAY DETERMINE.

"2. THE EXECUTIVE SECRETARY SHALL APPOINT, DIRECT AND SUPERVISE THE STAFF OF THE SECRETARIAT ACCORDING TO SUCH RULES AND PROCEDURES AND ON SUCH TERMS END CONDITIONS AS THE COMMISSION MAY DETERMINE.

"3. THE EXECUTIVE SECRETARY END SECRETARIAT SHALL

PERFORM THE FUNCTIONS ENTRUSTED TO THEM BY THE COMMISSION.

ARTICLE XVI
COMMISSIN -HEADQUARTERS

"1. THE HEADQUARTERS OF THE COMMISSION HSALL BE ESTABLISHED AT THE FIRST MEETING OF THE COMMISSION SHALL BE HELD WITHIN THREE MONTHS OF THE ENTRY INTO FORCE OF THIS CONVENTION.
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"2. THE DEPOSITARY (AS DESIGNATED IN ARTICLE XXVI OF THIS CONVENTION) SHALL CONVENE THE FIRST MEETING OF THE COMMISSION. THEREAFTER ALL MEETINGS OF THE COMMISSION SHALL BE HELD AT ITS HEADQUARTERS, UNTESS DECIDED OTHERWISE BY THE COMMISSION.

ARTICLE XVII
FINANCIAL MATTERS

"1. AT EACH ANNUAL MEETING, THE COMMISSION SHALL ADOPT IT BUDGET BY UNANIMOUS MOTE.

"2. A DRAFT DUBGET FOR THE COMMISSION AND THE SCIENTIFIC COMMITTEE AND ANY SUBSIDIARY BODIES SHALL BE PREPARED BY THE EXECUTIVE SECRETARY AND SUBMITTED TO THE CONTRACTIN PARTIES AT LEAST SIXTY DAYS BEFORE THE ANNUAL MEETING OF THE COMMISSIN.

"3. EACH CONTRACTING PARTY SHALL CONTRIBUTE TO THE BUDGET IN THE CURRENCIES AND PROPORTIONS APPROVED UNANIMOUSLY BY THE COMMISSION.

"4. THE FINANCIAL ACTIVITIES OF THE COMMISSION AND SCIENTIFIC COMMITTEE SHALL BE CONDUCTED IN ACCORDANCE WITH FINANCIAL REGULATIONS ADOPTED BY THE COMMISSION AND SHALLBE SUBJECT TO AN ANNUAL AUDIT BY EXTERNAL AUDITORS SELECTED BY THE COMMISSION.

"5. EACH CONTRACTING PARTY SHALL MEET ITS OWN EXPENSES ARISING FROM ITS PARTICIPATION IN THE COMMISSION AND IN THE SCIENTIFIC COMMITTEE.

ARTICLE XVIII
SUPPLY OF INFORMATION

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"1. THE CONTRACTING PARTIES SHALL, TO THE EXTENT PRACTICABLE, PROVIDE TO THE COMMISSION AND SCIENTIFIC COMMITTEE SUCH STATISTICAL, BIOLOGICAL OR OTHER DATA AND INFORMATION AS THE COMMISSION AND SCIENTIFIC COMMITTEE MAY REQUIRE IN THE EXERCISE OF THEIR FUNCTIONS.

"2. THE CONTRACTING PARTIES SHALL PROVIDE, IN THE MANNER AND AT SUCH INTERVALS AS MAY BE PRESCRIBED, DETAILS OF HARVESTING OPERATIONS BY THEIR NATIONALS AND VESSELS, SO AS TO ENABLE CATCH AND EFFORT STATISTICS TO BE COMPILED.

"3. THE CONTRACTING PARTIES SHALL PROVIDE TO THE COMMISSION AT SUCH INTERVALS AS MAY BE PRESCRIBED INFORMATION ON STEPS TAKEN TO IMPLEMENT THE CONSERVATION MEASURES ADOPTED BY THE COMMISSION.

"4. THE CONTRACTING PARTIES AGREE THAT IN ANY HARVESTING BY THEIR NATIONALS AND VESSELS ADVANTAGE SHALL BE TAKEN OF OPPORTUNITIES TO COLLECT DATA NEEDED TO ASSESS THE IMPACT OF HARVESTING.

ARTICLE XIX

OBLIGATION TO COMPLY WITH CONSERVATION MEASURES
OF THE CONVENTION

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C O N F I D E N T I A L SECTION 6 OF 8 CANBERRA 1982

FROM USDEL ANTARCTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

"1. EACH CONTRACTING PARTY SHALL TAKE APPROPRIATE MEASURES WITHIN ITS COMPETENCE TO ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS CONVENTION AND WITH MEASURES ADOPTED BY THE COMMISSION.

"2. EACH CONTRACTING PARTY SHALL TRANSMIT TO THE COMMISSION INFORMATION ON MEASURES TAKEN PURSUANT TO PARAGRAPH 1, INCLUDING THE IMPOSITION OF SANCTIONS FOR ANY VIOLATION.

ARTICLE XX

OBLIGATION TO SEEK COMPLIANCE ON THE PART OF THIRD COUNTRIES

"1. EACH CONTRACTING PARTY UNDERTAKES TO EXERT APPROPRIATE EFFORTS, CONSISTENT WITH THE CHARTER OF THE UNITED NATIONS, TO THE END THAT NO ONE ENGAGES IN ANY ACTIVITY CONTRARY TO THE OBJECTIVE OF THIS CONVENTION.

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TION.

"2. EACH CONTRACTING PARTY SHALL NOTIFY THE COMMISSION OF ANY SUCH ACTIVITY WHICH COMES TO ITS ATTENTION.

ARTICLE XXI

PREFERVATION OF COASTAL STATE JURISDICTION

"SUBJECT TO ARTICLE IV OF THIS CONVENTION, HARVESTING ACTIVITIES CARRIED OUT IN ACCORDANCE WITH THIS CONVENTION AND MEASURES ADOPTED BY THE COMMISSION AND IMPLEMENTED PURSUANT TO ARTICLE XIX AND OTHER PROVISIONS OF THIS CONVENTION SHALL NOT PREJUDICE THE RIGHTS UNDER INTERNATIONAL LAW OF ANY CONTRACTING PARTY ENTITLED TO EXERCISE JURISDICTION OVER MARINE AREAS WITHIN THE AREA IN WHICH THIS CONVENTION APPLIES.

ARTICLE XXII

CO-OPERATION WITH OTHER BODIES

"1. THE COMMISSION AND THE SCIENTIFIC COMMITTEE SHALL

CO-OPERATE WITH THE ANTARCTIC TREATY CONSULTATIVE PARTIES ON MATTERS FALLING WITHIN THE COMPETENCE OF THE LATTER.

"2. THE COMMISSION AND THE SCIENTIFIC COMMITTEE SHALL CO-OPERATE, AS APPROPRIATE, WITH THE FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS AND WITH OTHER SPECIALIZED AGENCIES.

"3. THE COMMISSION AND THE SCIENTIFIC COMMITTEE SHALL SEEK TO DEVELOP CO-OPERATIVE WORKING RELATIONSHIPS, AS
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APPROPRIATE, WITH INTER-GOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS WHICH COULD CONTRIBUTE TO THEIR WORK, INCLUDING THE SCIENTIFIC COMMITTEE ON ANTARCTIC RESEARCH, THE SCIENTIFIC COMMITTEE ON OCEANOGRAPHIC RESEARCH AND THE INTERNATIONAL WHALING COMMISSION.

"4. THE COMMISSION MAY ENTER INTO AGREEMENTS WITH THE ORGANIZATIONS REFERRED TO IN THIS ARTICLE AND WITH OTHER ORGANIZATIONS AS MAY BE APPROPRIATE. THE COMMISSION AND THE SCIENTIFIC COMMITTEE MAY INVITE SUCH ORGANIZATIONS TO SEND OBSERVERS TO THEIR MEETINGS AND TO MEETINGS OF THEIR SUBSIDIARY BODIES.

ARTICLE XXIII

SYSTEM OF OBSERVATION AND INSPECTION'

"1. IN ORDER TO PROMOTE THE OBJECTIVE AND ENSURE OBSERVANCE OF THE PROVISIONS OF THIS CONVENTION, THE CONTRACTING PARTIES AGREE THAT A SYSTEM OF OBSERVATION AND INSPECTION SHALL BE ESTABLISHED.

"2. THE SYSTEM OF OBSERVATION AND INSPECTION SHALL BE ELABORATED BY THE COMMISSION ON THE BASIS OF THE FOLLOWING PRINCIPLES:

(A) CONTRACTING PARTIES SHALL CO-OPERATE TO ENSURE THE EFFECTIVE IMPLEMENTATION
OF THE SYSTEM OF OBSERVATION AND INSPECTION.

(B) EACH CONTRACTING PARTY SHALL HAVE THE RIGHT TO DESIGNATE OBSERVERS TO CARRY OUT INSPECTIONS.

(C) IN ORDER TO VERIFY COMPLIANCE WITH MEASURES ADOPTED UNDER THIS CONVENTION, DESIGNATED OBSERVERS SHALL BE AFFORDED FREEDOM OF ACCESS TO VESSELS ENGAGED IN SCIENTIFIC RESEARCH, HARVESTING OR RELATED ACTIVITIES WITH RESPECT TO
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ANTARCTIC MARINE LIVING RESOURCES.

(D) DESIGNATED INSPECTORS SHALL BE PROVIDED WITH REASONABLE FACILITIES, INCLUDING SUITABLE ACCOMMODATION.

(E) INSPECTIONS SHALL BE SO CONDUCTED AS TO AVOID UNDUE INTERFERENCE WITH THE NORMAL OPERATION OF VESSELS.

(F) THE COMMISSION SHALL MAINTAIN A REGISTER OF DESIGNATED OBSERVERS AND SHALL PROVIDE THEM WITH AN APPROPRIATE IDENTIFICATION DOCUMENT.

(G) DESIGNATED OBSERVERS SHALL REMAIN SUBJECT TO THE JURISDICTION OF THE CONTRACTING PARTY OF WHICH THEY ARE NATIONALS.

(H) DESIGNATED OBSERVERS SHALL REPORT TO THEIR GOVERNMENTS WHICH SHALL IN TURN REPORT TO THE COMMISSION ON THE RESULTS OF INSPECTIONS.

(I) THE COSTS OF THE SYSTEM OF OBSERVATION AND INSPECTION SHALL BE APPORTIONED ON A BASIS TO BE DETERMINED BY THE COMMISSION.

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FROM USDEL ANTARTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

"3. PENDING THE ESTABLISHMENT OF THE SYSTEM OF OBSERVATION AND INSPECTION, CONTRACTING PARTIES SHALL ENTER INTO BILATERAL ARRANGEMENTS FOR THE CARRYING OUT OF INSPECTIONS UNDER TERMS AND CONDITIONS TO BE AGREED BETWEEN THEM.

ARTICLE XXIV

SETTLEMENT OF DISPUTES

"1. IF ANY DISPUTE ARISES BETWEEN TWO OR MORE OF THE CONTRACTING PARTIES CONCERNING THE INTERPRETATION OR APPLICATION OF THIS CONVENTION, THOSE CONTRACTING PARTIES SHALL CONSULT AMONG THEMSELVES WITH A VIEW TO HAVING THE DISPUTE RESOLVED BY NEGOTIATION, INQUIRY, MEDIATION, CONCILIATION, ARBITRATION, JUDICIAL SETTLEMENT OR OTHER PEACEFUL MEANS OF THEIR OWN CHOICE.

"2. ANY DISPUTE OF THIS CHARACTER NOT SO RESOLVED SHALL, WITH THE CONSENT IN EACH CASE OF ALL PARTIES TO BE CONFIDENTIAL

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THE DISPUTE, BE REFERRED FOR SETTLEMENT TO THE INTERNATIONAL COURT OF JUSTICE OR TO ARBITRATION; BUT FAILURE TO REACH AGREEMENT ON REFERENCE TO THE INTERNATIONAL COURT OR TO ARBITRATION SHALL NOT ABSOLVE PARTIES TO THE DISPUTE FROM THE RESPONSIBILITY OF CONTINUING TO SEEK TO RESOLVE IT BY ANY OF THE VARIOUS PEACEFUL MEANS REFERRED TO IN PARAGRAPH 1 OF THIS ARTICLE.

"3. IN CASES WHERE THE DISPUTE IS REFERRED TO ARBITRATION, THE ARBITRAL TRIBUNAL SHALL BE CONSTITUTED AS PROVIDED IN THE ANNEX TO THIS CONVENTION.

ARTICLE XXV

SIGNATURE

"1. THIS CONVENTION SHALL BE OPEN FOR SIGNATURE AT.....FROM.....
59. BY THE STATES PARTICIPATING
IN THE MEETING AT WHICH THIS CONVENTION IS ADOPTED.

"2. THE STATES WHICH SO SIGN WILL BE THE ORIGINAL SIGNATORY STATES OF THE CONVENTION

ARTICLE XXVI RATIFICATION

"THIS CONVENTION IS SUBJECT TO RATIFICATION,
APPROVAL OR ACCEPTANCE BY SIGNATORY STATES. INSTRU-
MENTS OF RATIFICATION, ACCEPTANCE OR APPROVAL SHALL BE
DEPOSITED WITH THE GOVERNMENT OF ,
HEREBY DESIGNATED AS THE DEPOSITARY.
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ARTICLE XXVII
ENTRY INTO FORCE

"1. THIS CONVENTION SHALL ENTER INTO FORCE ON THE
THIRTIETH DAY FOLLOWING THE DATE OF THE DEPOSIT OF THE . . .
INSTRUMENT OF RATIFICATION, ACCEPTANCE, APPROVAL OR
ACCESSION BY STATES REFERRED TO IN ARTICLE XXV.

"2. WITH RESPECT TO EACH STATE WHICH SUBSEQUENTLY
DEPOSITS AN INSTRUMENT OF RATIFICATION, ACCEPTANCE,
APPROVAL OR ACCESSION, THE CONVENTION SHALL ENTER INTO
FORCE ON THE THIRTIETH DAY FOLLOWING THE DEPOSIT BY
SUCH STATE OF ITS INSTRUMENT OF RATIFICATION, ACCEPT-
ANCE, APPROVAL OR ACCESSION.

ARTICLE XXVIII
ACCESSION.

"THIS CONVENTION SHALL BE OPEN FOR ACCESSION
BY:

(A) ANY STATE PARTICIPATING IN THE MEETING AT WHICH
THIS CONVENTION IS ADOPTED WHICH HAS NOT SIGNED
THE CONVENTION AS PROVIDED FOR IN ARTICLE XXV;

(B) ANY OTHER STATE WHICH IS ENGAGED IN RESEARCH OR HAR-
VESTING ACTIVITIES IN RELATION TO THE MARINE LIVING RESOURCES
TO WHICH THIS CONVENTION APPLIES.

ARTICLE XXIX
ACCEPTANCE OF CONSERVATION MEASURES

"A STATE WHICH DEPOSITS AN INSTRUMENT OF RATI-
FICATION, ACCEPTANCE, APPROVAL OR ACCESSION AFTER THE
ENTRY INTO FORCE OF THIS CONVENTION SHALL ACCEPT THE
CONSERVATION MEASURES IN FORCE AT THE DATE OF SUCH
DEPOSIT.

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ARTICLE XXX

AMENDMENT

"1. THIS CONVENTION MAY BE AMENDED AT ANY TIME. THE TEXT OF ANY AMENDMENT PROPOSED BY A CONTRACTING PARTY SHALL BE SUBMITTED TO THE DEPOSITARY, WHICH SHALL TRANSMIT IT TO ALL THE CONTRACTING PARTIES.

"2. IF ONE-THIRD OF THE CONTRACTING PARTIES REQUEST A MEETING TO DISCUSS THE PROPOSED AMENDMENT THE DEPOSITARY SHALL CALL SUCH A MEETING.

"3. AN AMENDMENT SHALL ENTER INTO FORCE WHEN THE DEPOSITARY HAS RECEIVED INSTRUMENTS OF RATIFICATION, ACCEPTANCE OR APPROVAL THEREOF FROM ALL THE CONTRACTING PARTIES.

ARTICLE XXXI

WITHDRAWAL

"1. ANY CONTRACTING PARTY MAY WITHDRAW FROM THIS CONVENTION ON 30 JUNE OF ANY YEAR, BY GIVING NOTICE ON OR BEFORE 1 JANUARY OF THE SAME YEAR TO THE DEPOSITARY, WHICH, UPON RECEIPT OF SUCH A NOTICE, SHALL COMMUNICATE IT FORTHWITH TO THE OTHER CONTRACTING PARTIES.

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FROM USDEL ANTARCTIC

DEPARTMENT PASS MARINE MAMMAL COMMISSION

"2. ANY OTHER CONTRACTING PARTY MAY, IN LIKE MANNER, WITHIN SIXTY DAYS OF THE RECEIPT OF A COPY OF SUCH A NOTICE FROM THE DEPOSITARY, GIVE NOTICE OF WITHDRAWAL IN WHICH CASE THE CONVENTION SHALL CEASE TO BE IN FORCE ON JUNE 30 OF THE SAME YEAR WITH RESPECT TO THE CONTRACTING PARTY GIVING SUCH NOTICE.

ARTICLE XXXII
NOTIFICATION BY THE DEPOSITARY

"THE DEPOSITARY SHALL NOTIFY ALL SIGNATORY AND ACCEDING STATES OF THE FOLLOWING:

(A) SIGNATURES OF THIS CONVENTION AND THE DEPOSIT OF INSTRUMENTS OF RATIFICATION, APPROVAL, ACCEPTANCE AND ACCESSION;

(B) THE DATE OF ENTRY INTO FORCE OF THIS CONVENTION AND OF ANY AMENDMENT THERETO, AND THE DATE ON WHICH ANY WITHDRAWAL TAKES EFFECT.
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ARTICLE XXXIII
AUTHENTIC TEXTS AND REGISTRATION

"1. THIS CONVENTION DRAWN UP IN THE ENGLISH, FRENCH, RUSSIAN AND SPANISH LANGUAGES, EACH TEXT BEING EQUALLY AUTHENTIC, SHALL BE DEPOSITED IN THE ARCHIVES OF THE GOVERNMENT OF WHICH SHALL TRANSMIT DULY CERTIFIED COPIES THEROF TO ALL SINGATORY AND ACCEDING STATES.

"2. UPON ENTRY INTO FORCE OF THE CONVENTION THE DEPOSITARY SHALL TRANSMIT A CERTIFIED COPY THEROF TO THE SECRETARIAT OF THE UNITED NATONS FOR REGISTRATION AND PUBLICATION IN ACCORDANCE WITH ARTICLE 102 OF THE CHARTER OF THE UNITED NATIONS.

". IN WITNESS WHEREOF THE UNDERSIGNED, BEING DULY AUTHORIZED THERETO BY THEIR RESPECTIVE GOVERNMENTS, HAVE SIGNED THIS CONVENTION.

"DONE AT.THIS DAYOF
..... 1978.

ANNEX FOR AN ARBITRAL TRIBUNAL

"THE ARBITRAL TRIBUNAL REFERRED TO IN PARAGRAPH

3 OF ARTICLE XXIV SHALL BE COMPOSED OF THREE ARBITRATORS
WHO SHALL BE APPOINTED AS FOLLOWS:

"THE PARTY COMMENCING PROCEEDINGS SHALL COMMUNICATE THE NAME OF AN ARBITRATOR TO THE OTHER PARTY WHICH, IN TURN, WITHIN A PERIOD OF 40 DAYS FOLLOWING SUCH NOTIFICATION, SHALL COMMUNICATE THE NAME OF THE CONFIDENTIAL

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SECOND ARBITRATOR. THE PARTIES SHALL, WITHIN A PERIOD OF 60 DAYS FOLLOWING THE APPOINTMENT OF THE SECOND ARBITRATOR, APPOINT THE THIRD ARBITRATOR, WHO SHALL NOT BE A NATIONAL OF EITHER PARTY AND SHALL NOT BE OF THE SAME NATIONALITY AS EITHER OF THE FIRST TWO ARBITRATORS. THE THIRD ARBITRATOR SHALL PRESIDE OVER THE TRIBUNAL.

"IF THE SECOND ARBITRATOR HAS NOT BEEN APPOINTED WITHIN THE PRESCRIBED PERIOD OR IF THE PARTIES HAVE NOT REACHED AGREEMENT WITHIN THE PRESCRIBED PERIOD ON THE APPOINTMENT OF THE THIRD ARBITRATOR, THAT ARBITRATOR SHALL BE APPOINTED, AT THE REQUEST OF EITHER PARTY, BY THE.

"THE ARBITRAL TRIBUNAL SHALL DECIDE WHERE ITS HEADQUARTERS WILL BE LOCATED AND SHALL ADOPT ITS OWN RULES OF PROCEDURE.

"THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE MADE BY A MAJORITY OF ITS MEMBERS, WHO MAY NOT ABSTAIN FROM VOTING.

-ANY CONTRACTING PARTY WHICH IS NOT A PARTY TO THE DISPUTE MAY INTERVENE IN THE PROCEEDINGS WITH THE CONSENT OF THE ARBITRAL TRIBUNAL.

"THE AWARD OF THE ARBITRAL TRIBUNAL SHALL BE FINAL AND BINDING ON ALL PARTIES TO THE DISPUTE AND ON ANY STATE WHICH INTERVENES IN THE PROCEEDINGS AND SHALL BE COMPLIED WITH WITHOUT DELAY. THE ARBITRAL TRIBUNAL SHALL INTERPRET THE AWARD AT THE REQUEST OF ONE OF THE PARTIES TO THE DISPUTE OR OF ANY INTERVENING STATE.

UNLESS THE ARBITRAL TRIBUNAL DETERMINES OTHERWISE BECAUSE OF THE PARTICULAR CIRCUMSTANCES OF THE CONFIDENTIAL

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CASE, THE EXPENSE OF THE TRIBUNAL INCLUDING THE RE-
MUNERATION OF ITS MEMBERS, SHALL BE BORNE BY THE PARTIES
TO THE DISPUTE IN EQUAL SHARES."
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